

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application and thanks the Examiner for the determination of allowable subject matter specified in the Official Action mailed August 3, 2007. In the Official Action mailed August 3, 2007, the Examiner stated claims 9, 33, 34, 45, 46, 57, 58, 73, 81, 82, 92, 93 and 109 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 29, 41, 53, 65, 77, 88 and 104 are amended herein. Applicant submits that claims 1, 29, 41, 53, 65, 77, 88 and 104 and the respective dependent claims are patentable and allowance of these claims is respectfully requested.

Rejections under 35 U.S.C. § 112

Claims 7, 19, 25 and 71 were rejected under 35 U.S.C. § 112, second paragraph.

Claim 28 was rejected under 35 U.S.C. § 112.

Claims 7, 19 and 71 are cancelled herein. Claim 28 is amended herein. Applicant respectfully submits that claim 25 does not recite the limitation "no greater than a sum of the one or more prime numbers minus one for each group of dwell times." Accordingly, Applicant respectfully submits that this rejection is moot and withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. § 101

Claims 65-98 were rejected under 35 U.S.C. § 101.

Claims 65-98 are amended herein. Applicant respectfully submits that amended claims 65-98 comport with the requirements of U.S.C. § 101. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 1-8, 10-13, 20-23, 65, 71, 72, 74, 75 and 76 were rejected as obvious over U.S. Patent No. 6,920,171 ("Souissi") in view of EP 1119112 ("Panaski").

Claims 14-19 and 66-70 were rejected as obvious over Souissi and Panaski in view of U.S. Patent No. 6,553,019 ("Larioa").

Claims 24-28 were rejected as obvious over U.S. Patent No. 6,731,939 ("Watanabe") in view of *Time-Frequency-Code Slicing: Efficiently Allocating the Communications Spectrum to Multirate Users* ("Karol").

Claims 29, 41, 53, 30, 42, 54, 31, 43, 55, 32, 44, 56, 37, 47 and 59 were rejected as obvious over U.S. Patent No. 7,039,358 ("Shellhammer") in view of U.S. Patent No. 6,377,608 ("Zyren").

Claim 36 was rejected as obvious over Shellhammer and Zyren in view of U.S. Publication No. 2004/0196784 ("Larsson").

Claims 37, 49 and 61 were rejected as obvious over Shellhammer and Zyren in view of U.S. Patent No. Laroia.

Claims 38, 50, 62, 39, 51, 63 and 40 were rejected as obvious over Shellhammer, Zyren and Laroia, in view of U.S. Patent No. 6,246,713 ("Mattisson").

Claims 77, 88, 78, 89, 79, 90, 80 and 91 were rejected as obvious over Shellhammer, in view of Zyren.

Claims 83 and 94 were rejected as obvious over Shellhammer in view of Zyren and Larsson.

Claims 84 and 95 were rejected as obvious over Shellhammer and Zyren in view of Larioa.

Claims 85, 96, 86, 97, 87 and 98 were rejected as obvious over Shellhammer, Zyren and Laroia in view of Mattisson.

Claims 99-107 and 110-113 were rejected as obvious over Souissi in view of Mattisson.

Claim 108 was rejected as obvious over Souissi and Mattison in view of Watanabe.

As discussed above, claims 1-6, 8, 10-12, 29-32, 34-44, 46-56, 58-70, 72, 74-80, 82-91, 93-98, 104-108 and 110-113 have been amended. Independent claims 13, 24 and 99 are amended herein and are submitted to be patentable over the cited prior art, as are the respective dependent claims. Accordingly, claims 1-6, 8, 10-18, 20-32, 34-44, 46-56, 58-70, 72, 74-80, 82-91, 93-108 and 110-113 are submitted to be patentable and withdrawal of this rejection is respectfully requested.

Conclusion

Applicant has now made an earnest attempt to place this case in condition for allowance and thanks the Examiner for the determination of allowable subject matter. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of claims 1-6, 8, 10-18, 20-32, 34-44, 46-56, 58-70, 72, 74-80, 82-91, 93-108 and 110-113. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

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